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July 18, 2022

BY ECF PACER

Hon. Valerie E. Caproni
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Libra Max v. Barbara H. Urbach Lissner*, Case 1:22-cv-05070

Dear Judge Caproni:

This law firm represents Libra Max, the daughter of the famed artist Peter Max and the plaintiff in the above referenced action (“Libra” or “Plaintiff”). I write pursuant to Your Honor’s Rule 2.C to request a 45-day extension of time, to September 6, 2022, to respond to Defendant Barbara Lissner’s (“Lissner” or “Defendant”) motion to dismiss, filed on July 8, 2022 at ECF Doc. Nos. 13-17.

We seek this extension because the papers filed by Defendant are extensive (they include three declarations and over twenty exhibits); several of our lawyers have vacations planned for July and August, including travel abroad; and based on our communications to date with Defendant’s counsel, it appears that we will be briefing the sealing issue at the same time as we will be briefing the motion to dismiss (*see* ECF Doc. No. 21).

Under the local rules, Plaintiff’s opposition is currently due on July 22, 2022, and this is Plaintiff’s first request for an extension of time. We have conferred with Defendant’s counsel who has indicated that Defendant does not consent to any extension beyond July 22, 2022.

The reason provided by Defendant’s counsel for refusing consent is as follows: “among other things, the fact that Libra and [Schlam Stone & Dolan LLP] are using the press to attack [Lissner], including an article that was published [on July 13, 2022], with quotes from Libra and Jeff Eilender about our [Lissner’s] ‘abusive guardianship.’ Every day that this complaint does not get dismissed is damaging to [Lissner].” (Quoting from a July 14, 2022 email from Defense counsel to Plaintiff’s counsel.)

Defendant’s argument about press surrounding the Peter Max guardianship is a red herring; it is unrelated to our requested extension. We are seeking a normal courtesy extension, in the middle of summer, and a 45-day extension is not atypical for a complex, dispositive motion in federal court. There is no urgency to Defendant’s motion to dismiss. In fact, Lissner’s state court action against Libra has been pending since December 2021, and has not progressed beyond initial pleadings.

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The article that Lissner cites as the reason for opposing Libra's requested extension¹ is by no means the first article about Lissner and her role in Peter's guardianship—there have been dozens of articles, plus television coverage, about Lissner's treatment of Libra's father, which were published well before Libra's filing of her federal complaint.² This action is mentioned only once, briefly, in the article Defense counsel refers to. The article discusses the guardianship proceeding as a whole, not this federal action in particular.

The timing of Libra's opposition to Lissner's motion to dismiss this action will have no impact on whether there continues to be press about Peter Max's guardianship and Libra's

¹ See Pittsburgh Jewish Chronicle, "Artist Peter Max's court battles are a clash between children of Holocaust survivors" (July 13, 2022), available at: <https://jewishchronicle.timesofisrael.com/artist-peter-maxs-court-battles-are-a-clash-between-children-of-holocaust-survivors/>.

² We cite a sample of the articles here, but this is not a comprehensive list. See, e.g., Variety, "After Britney Spears Victory, Attorney Mathew Rosengart Joins Legal Team to Free Artist Peter Max" (Nov. 22, 2021), available at <https://variety.com/2021/biz/news/peter-max-mathew-rosengart-guardianship-case-1235117706/>; Whitehot Magazine, "Peter Max: From Positive Pop Art Prince to Human Rights Prisoner" (Nov. 2021), available at <https://whitehotmagazine.com/articles/art-prince-human-rights-prisoner/5218>; Daily Beast, "Britney's Lawyer Mathew Rosengart Joins Legal Effort to Free Peter Max" (Nov. 22, 2021), available at <https://www.thedailybeast.com/mathew-rosengart-britney-spears-lawyer-joins-legal-team-fighting-to-free-artist-peter-max-from-guardianship>; Page Six, "Britney Spears' lawyer joins team fighting to free artist Peter Max" (Nov. 22, 2021), available at <https://pagesix.com/2021/11/22/mathew-rosengart-joins-legal-effort-to-free-peter-max-from-guardianship/>; Page Six, "Safety fears for artist Peter Max in 'Britney Spears-style conservatorship'" (Dec. 2, 2021), available at <https://pagesix.com/2021/12/02/fears-for-artist-peter-max-in-britney-spears-style-conservatorship/>; Artnet News, "Art Industry News: Britney Spears's Lawyer Will Now Try to Free Artist Peter Max from Guardianship, Too + Other Stories" (Nov. 23, 2021), available at <https://news.artnet.com/art-world/digest-nov-23-2038970>; amNY, "Free Peter Max: a daughter's fight to remove her dad from the clutches of 'predatory' guardianship" (Nov. 5, 2021), available at <https://www.amny.com/news/free-peter-max-a-daughters-fight-to-remove-her-dad-from-the-clutches-of-predatory-guardianship/#.YYVLEz7WEWg.twitter>; Washingtonian, "Things Are Looking Up for Britney Spears. So the Next 'Free Britney' Rally Will Focus on Other Questionable Guardianships." (Oct. 6, 2021), available at <https://www.washingtonian.com/2021/10/06/free-britney-rally-dc-october-2021/>; USA Today, "It's not just Britney Spears. 1.3 million Americans are under conservatorships. Activists want reform." (Oct. 8, 2021), available at https://www.freepetermax.com/files/ugd/ce29eb_825a1b4f51a5447eb68601921dca549e.pdf; Yahoo! News, "Family of ailing artist Peter Max hopes to get him out of guardianship" (Sept. 27, 2021), available at <https://news.yahoo.com/family-ailing-artist-peter-max-205300833.html>; Daily News, "Britney Spears, Peter Max, and all of us: Abusive guardianships are a big national problem" (Oct. 13, 2021), available at <https://www.nydailynews.com/opinion/ny-oped-britney-spears-peter-max-20211013-zxyfehkuczaerjlbhwkcf3laq-story.html>; Daily News, "Family of ailing artist Peter Max hopes to get him out of guardianship" (Sept. 27, 2021), available at <https://www.nydailynews.com/new-york/ny-peter-max-artist-guardianship-family-alzheimers-20210927-c646qnhj3namfjvj4fgnnc4ndi-story.html>; New York Post, "Guardianship forces pop art legend Peter Max to live as shut-in, pals say: Devine" (Sept. 29, 2021), available at https://nypost.com/2021/09/29/guardianship-forces-peter-max-to-live-as-shut-in-devine/?utm_source=url_sitebuttons&utm_medium=site%20buttons&utm_campaign=site%20buttons; New York Post, "Peter Max's Daughter fights against pop artist's 'abusive' guardianship" (Nov. 17, 2021), available at <https://nypost.com/2021/11/17/peter-maxs-daughter-fights-against-pop-artists-guardianship/>; Fox 5 New York, "Calls to end Peter Max guardianship" (Oct. 13, 2021), available at https://www.youtube.com/watch?v=guCD8uwrL_0; and YouTube, "CBS12 Investigates the Guardianship of Peter Max" (Jul. 14, 2022), available at <https://www.youtube.com/watch?v=BwMH1PfNAPU>.

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allegations against Lissner. Moreover, even if this Court were to rule in favor of Lissner on her motion to dismiss, it would do little to salvage her reputation, given the procedural nature of the motion (especially given that many of Lissner's arguments pertain to this court's jurisdiction). Lissner has not indicated that she will withdraw her own action against Libra in state court, and the guardianship proceeding will continue – thus, whatever level of interest the media has in the Peter Max guardianship and Lissner's role in it will remain at the same level regardless of what happens with Lissner's motion to dismiss.

Respectfully submitted,

A handwritten signature in blue ink, reading "Jeffrey Eilender". The signature is written in a cursive, flowing style.

Jeffrey M. Eilender

cc: All counsel (by ECF PACER)